HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

30-08-2006

WRIT PETITION No.17868 of 2006

Between:

M/s. Romano Agencies,
Secunderabad. .. Petitioner

And

1. The Appellate Deputy Commissioner (CT),
Hyderabad and another.

..Respondents

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ORDER: (Per JC, J)**:**

The petitioner is a partner-ship firm and registered dealer on the rolls of the 2nd respondent-Commercial Tax Officer, Secunderabad Division, Hyderabad, engaged in purchase and sales of G. I. Pipes and Fittings, Tiles, Tubes etc., For the assessment year 2002-03, the petitioner's liability of the sales tax under the C.S.T. Act came to be determined by the 2nd respondent by his order dated 09-03-2006. Aggrieved by the same, he preferred an appeal before the 1st respondent-Appellate Deputy Commissioner, Nampally, Hyderabad. the appeal was rejected by the 1st respondent by his proceedings dated 04-07-2006 on the ground that the

petitioner did not enclose the proof of payment of requisite fee for maintaining the appeal and also he did not deposit 12.5% disputed tax which is a condition precedent for the maintenance of appeal under Section 19 (1) of the A.P. General Sales Tax Act. Hence, the present writ petition with a prayer as follows:

> "To issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned order dated 04-07-2006 passed by the 1st respondent in AR.Sl.No.B/45/2006 for assessment year 2002-03 (CST) as illegal and unjustified in the facts and circumstances of the case."

2. It is asserted by the petitioner in the affidavit filed in support of the petition that though the requisite fee was paid even by the date of the presentation of the appeal, the proof of the same could not be produced before the appellate authority by inadvertence and insofar as the payment of 12.5% of the disputed tax is concerned, the same was paid subsequent to the rejection of the appeal by the 1st respondent.

3. In the circumstances, we are of the opinion that the matter can be disposed of at the admission stage and the ends of justice would be met by directing the 1st respondent to consider the appeal of the petitioner on merits and dispose of the same in accordance with law, subject to the condition that the assertion of the petitioner that he paid the requisite fee and also made the deposit of 12.5% of the disputed tax is found to be correct.

4. With the aforementioned direction, the writ petition is disposed of. No costs.

J.CHELAMESWAR, J

August 30, 2006. **D.APPARAO, J**

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